

IC 31-34-9

Chapter 9. Filing of Petition Alleging That Child Is Child In Need of Services

IC 31-34-9-1

Request for authorization to file petition; representation of interests of state

Sec. 1. The prosecuting attorney or the attorney for the county office of family and children:

- (1) may request the juvenile court to authorize the filing of a petition alleging that a child is a child in need of services; and
- (2) shall represent the interests of the state at this proceeding and at all subsequent proceedings on the petition.

As added by P.L.1-1997, SEC.17.

IC 31-34-9-2

Authorization to file petition; evidence; finding

Sec. 2. The juvenile court shall do the following:

- (1) Consider the preliminary inquiry and the evidence of probable cause that is contained in the report of the preliminary inquiry or an affidavit of probable cause.
- (2) Authorize the filing of a petition if the court finds probable cause to believe that the child is a child in need of services.

As added by P.L.1-1997, SEC.17.

IC 31-34-9-3

Petition; verification and contents

Sec. 3. A petition must:

- (1) be verified;
- (2) be entitled "In the Matter of _____, a Child Alleged to be a Child in Need of Services";
- (3) be signed and filed by the person representing the interests of the state; and
- (4) contain the following information:
 - (A) A citation to the provision of the juvenile law that gives the juvenile court jurisdiction in the proceeding.
 - (B) A citation to the provision of the juvenile law that defines a child in need of services.
 - (C) A concise statement of the facts upon which the allegations are based, including the date and location at which the alleged facts occurred.
 - (D) The child's:
 - (i) name;
 - (ii) birth date; and
 - (iii) residence address;if known.
 - (E) The name and residence address of the child's parent, guardian, or custodian if known.
 - (F) The name and title of the person signing the petition.
 - (G) A statement indicating whether the child has been

removed from the child's parent, guardian, or custodian, and, if so, a description of the following:

- (i) Efforts made to provide the child or the child's parent, guardian, or custodian with family services before the removal.
- (ii) Reasons why family services were not provided before the removal of the child if family services were not provided.

As added by P.L.1-1997, SEC.17.

IC 31-34-9-4

Error in or omission of citation; effect

Sec. 4. Error in a citation or the omission of a citation is ground for:

- (1) dismissal of the petition; or
- (2) reversal of the adjudication;

only if the error or omission misleads the child or the child's parent, guardian, or custodian to the child's, parent's, guardian's, or custodian's prejudice.

As added by P.L.1-1997, SEC.17.

IC 31-34-9-5

Written request that child be taken into custody; evidence; finding

Sec. 5. (a) If a petition is authorized, the person filing may request in writing that the child be taken into custody.

(b) The person must support this request with sworn testimony or affidavit. The court may grant the request if the court makes written findings of fact upon the record that a ground for detention exists under IC 31-34-5-3.

As added by P.L.1-1997, SEC.17.

IC 31-34-9-6

Detention hearing

Sec. 6. If the juvenile court grants the request to have the child taken into custody, the court shall proceed under IC 31-34-5-1 and IC 31-34-5-2.

As added by P.L.1-1997, SEC.17.

IC 31-34-9-7

Parties

Sec. 7. The:

- (1) child;
- (2) child's parents, guardian, or custodian;
- (3) county office of family and children; and
- (4) guardian ad litem or court appointed special advocate;

are parties to the proceedings described in the juvenile law and have all rights of parties under the Indiana Rules of Trial Procedure.

As added by P.L.1-1997, SEC.17.

IC 31-34-9-8

Dismissal on motion of person representing interests of state

Sec. 8. (a) A person representing the interests of the state may file a motion to dismiss any petition that the person has filed under this chapter.

(b) If a person files a motion to dismiss under subsection (a), the person must provide to the court a statement that sets forth the reasons the person is requesting that the petition be dismissed.

(c) Not later than ten (10) days after the motion to dismiss is filed under subsection (a), the court shall:

- (1) summarily grant the motion to dismiss; or
- (2) set a date for a hearing on the motion to dismiss.

(d) If the court sets a hearing on the motion to dismiss under subsection (c)(2), the court may appoint:

- (1) a guardian ad litem;
- (2) a court appointed special advocate; or
- (3) both a guardian ad litem and a court appointed special advocate;

to represent and protect the best interests of the child.

As added by P.L. 1-1997, SEC.17. Amended by P.L. 129-2005, SEC.6.